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EXAMINER

COMSTOCK, DAVID C

ART UNIT

PAPER NUMBER

3733

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Part of Paper No./Mail Date 20070121

DETAILED ACTION

Election/Restrictions

Applicant's election of species I in the reply filed on 10 November 2006 is acknowledged. Applicant indicated which claims correspond to the species characterized by the figures, pursuant to the election requirement, but did not distinctly and specifically point out any supposed errors in the restriction requirement. Therefore, the election has been treated as an election without traverse (MPEP § 818.03(a)). Accordingly, claims 8 and 26-33 are withdrawn from further consideration.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 and 9-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Agee et al. (4,922,896).

Agee et al. disclose a fixation device 10 comprising a strut assembly 12, compound movable joints 14, 16, 24, and a bone fragment attachment apparatus 20, 103 attached to the joints (see, e.g., Figs 1-4). The compound joints comprise orthogonally opposed revolute joints, e.g., 25, 41, 43. One compound joint 16 is capable of rotating about the strut and another 24 is capable of sliding along the linear axis of the strut assembly. The compound joints comprise locking cap screws housing

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the gear mechanism. The revolute joints comprise a gear reduction mechanism. The threads can be considered to satisfy the limitation pertaining to "an axial helical spline mechanism" and "a concentric helical spline mechanism." An extension strut 30 moves linearly within a base strut when a linear adjuster is rotated. The base strut comprises a square key (e.g. a sidewall portion thereof) and the extension strut comprises a lateral groove to receive the key (see Fig. 1). The extension strut comprises the linear adjuster, a threaded rod and a threaded lock (Fig. 1). The bone fragment attachment apparatus comprises a pin clamp 20 and pins 103.

Allowable Subject Matter

Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Comstock whose telephone number is (571) 272-4710. Please leave a detailed voice message if examiner is unavailable. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached at (571) 272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



D. Comstock



EDUARDO C. ROBERT
SUPERVISORY PATENT EXAMINER